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7 *Attorneys for Defendant*
8 *Smoke Ranch Maintenance District*

9 UNITED STATES DISTRICT COURT
10 DISTRICT OF NEVADA

11 THE BANK OF NEW YORK MELLON
12 F/K/A THE BANK OF NEW YORK AS
13 SUCCESSOR TO JPMORGAN CHASE
14 BANK, NOT INDIVIDUALLY BUT
15 SOLELY AS TRUSTEE FOR THE
16 HOLDERS OF THE BEAR STEARNS ALT-
17 A TRUST 2004-11, MORTGAGE PASS-
18 THROUGH CERTIFICATES, SERIES 2004-
19 11,

20 Plaintiff,

21 vs.

22 SFR INVESTMENTS POOL, 1, LLC, a
23 Nevada Limited Liability Company; SMOKE
24 RANCH MAINTENANCE DISTRICT, a
25 Domestic Non-Profit Corporation; and RED
26 ROCK FINANCIAL SERVICES, LLC, a
27 Delaware Limited Liability Company,

28 Defendants.

CASE NO. 2:17-cv-00716-RFB-NJK

DEMAND FOR SECURITY OF COSTS

24 COMES NOW, Defendant SMOKE RANCH MAINTENANCE DISTRICT by and
25 through its attorneys of record, Marc S. Cwik, Esq., and Bradley M. Marx, Esq., of LEWIS
26 BRISBOIS BISGAARD & SMITH LLP, demands and requests securities from Plaintiff THE
27 BANK OF NEW YORK MELLON F/K/A THE BANK OF NEW YORK AS SUCCESSOR TO
28 JPMORGAN CHASE BANK, NOT INDIVIDUALLY BUT SOLELY AS TRUSTEE FOR THE

2:17-cv-00716-RFB-NJK

DEMAND FOR SECURITY OF COSTS

4823-6924-4231.1

1 HOLDERS OF THE BEAR STEARNS ALT-A TRUST 2004-11, MORTGAGE PASS-
2 THROUGH CERTIFICATES, SERIES 2004-11 ("New York Mellon"), non-residents of the State
3 of Nevada, post a non-resident cost bond pursuant to Nevada Revised Statutes 18.130(1). This
4 statute states, in pertinent part:

5 (1) When a plaintiff in an action resides out of the state, or is a foreign corporation,
6 security for the costs and charges which may be awarded against such plaintiff may
7 be required by the defendant, by the filing and service on plaintiff of a written
8 demand therefor within the time limited for answering the complaint. When so
9 required, all proceedings in the action shall be stayed until an undertaking, executed
10 by two or more persons, be filed with the clerk, to the effect that they will pay such
11 costs and charges as may be awarded against the plaintiff by judgment, or in the
12 progress of the action, not exceeding the sum of \$500; or in lieu of such
undertaking, the plaintiff may deposit \$500, lawful money, with the clerk of the
court, subject to the same conditions as required for the undertaking. The plaintiff,
upon filing the undertaking or depositing the security, shall notify the defendant of
such filing or deposit, and the defendant, after receipt of such notice, shall have 10
days or the period allowed under N.R.C.P. 12(a), whichever is longer, in which to
answer or otherwise plead to the complaint.

13 See, NRS 18.130(1).

14 In diversity cases in the United States District Court for the District of Nevada, demands
15 for security costs pursuant to NRS 18.130 are enforced and Defendants do not have to include
16 points and authorities. *Hamar v. Hyatt Corp.*, 98 F.R.D. 305 (D. Nev. 1983).

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1 Based upon the above-cited authority and the mandatory requirements of NRS 18.130,
2 Defendant SMOKE RANCH MAINTENANCE DISTRICT, demands that New York Mellon post
3 the necessary security of costs of Five Hundred Dollars (\$500.00) within thirty (30) days and that
4 the proceedings be stayed until such bond is posted. Should New York Mellon fail to comply,
5 SMOKE RANCH MAINTENANCE DISTRICT requests this action be dismissed.

6 DATED this 26th day of April, 2017.

7 LEWIS BRISBOIS BISGAARD & SMITH LLP

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9 By /s/ Bradley M. Marx
10 MARC S. CWIK, ESQ.
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14 6385 S. Rainbow Boulevard, Suite 600
15 Las Vegas, Nevada 89118

16 *Attorneys for Defendant*
17 *Smoke Ranch Maintenance District*

18 GRANTED. Security shall
19 be posted within 7 days of
20 the issuance of this order.
21 IT IS SO ORDERED.
22 Dated: April 27, 2017

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United States Magistrate Judge